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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/727,243	12/04/2003	Anthony Santangelo		4884

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Anthony Santangelo
69 Scenic View Drive
Sicklerville, NJ 08081-3011

EXAMINER

BOEHLER, ANNE MARIE M

ART UNIT	PAPER NUMBER
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3611

DATE MAILED: 11/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/727,243

Applicant(s)

SANTANGELO, ANTHONY

Examiner

Anne Marie M. Boehler

Art Unit

3611

[Handwritten signature]

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 5-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 6/23/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. Applicant's drawing correction, filed July 2, 2004, is approved by the examiner.
2. Applicant's claims 5-7 and 9 have inaccurate status indicators ("currently amended" or "previously presented"). Claims 1-4 were original, claims 5-9 are all "new" claims.
3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 5, 6, 8, and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Parker.

Parker shows a cover that includes a square post that fits snugly into a hitch receiver to fix the cover to a vehicle. The cover is generally rectangular, with lower edges that curve inwardly.

5. Claims 5, 6, 8, and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Young.

Young shows a cover that includes a square post that slots snugly into a hitch receiver to fix the cover to a vehicle. The cover is generally rectangular, with a lower edge that curves inwardly.

6. Claims 5, 6, and 8 are rejected under 35 U.S.C. 102(e) as being anticipated by Turner.

Turner shows a hitch cover 30 that includes a square post 12 that fits snugly into a hitch receiver 16 to fix the cover to a vehicle.

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 5-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fulkerson in view of Dahl.

Fulkerson shows a cover 42 for a hitch receiver 20. The cover is generally rectangular with an inwardly curved lower edge and it completes and closes an opening in bumper fascia 30. In col. 3, lines 20-22, Fulkerson teaches that the cover 42 can be pivoted or removed to reveal the hitch receiver for use.

Fulkerson fails to teach providing a means for attaching the cover directly to the hitch receiver tube.

Dahl teaches providing a cover 13 for a hitch receiver tube in order to cover the tube for esthetic purposes and to protect the tube from dirt and damage. The cover is attached to the tube by a square post 18 that may fit snugly into the tube (see Figure 8).

It would have been obvious to one of ordinary skill in the art to provide the Fulkerson cover with a means for attaching the cover directly to the hitch receiver tube, as taught by Dahl, in order to provide a stronger support for the cover.

9. Applicant's arguments filed July 2, 2004 have been fully considered but they are not persuasive.

Applicant argues that his hitch cover distinguishes over the prior art hitch covers because the prior art covers provide limited protection to the trailer hitch components. However, in claims 5, 6, 8, and 9, applicant is only claiming the cover, not the cover in combination with the bumper fascia. Only in claim 7 is applicant apparently claiming the combination of the cover and the fascia, which together enclose and protect various hitch parts, including the sides of the receiver and other components. Applicant's disclosed cover includes only two parts the square tube 1 and the cover plate 2. Applicant has not specified the size of his cover. The cover alone only provides a complete closure of the hitch receiver opening and some additional protection from collision from a objects approaching the receiver from the rear. The cover alone does not enclose a space around the outside of the receiver. Therefore, the examiner maintains that the Parker, Young, and Turner covers include all of the structure of claims 5, 6, 7, and 9 and provide the same type of coverage as the cover (elements 1 and 2) disclosed and claimed by applicant.

Applicant also argues that the prior art devices are not "molded". However, the definition of to "mold" in the 2nd Edition of the American Heritage Dictionary, (copyright 1982) includes "to form into a particular shape". Every one of the prior art devices is

“molded”, as broadly recited. Also, Dahl, for example, also specifically teaches forming the cover from molded plastic.

Applicant also argues that the prior art devices lack additional features including a “seal” against dirt, mud, moisture and light; safety connectors, chain anchors, electrical connectors; a curve along the entire lower edge; molded-in cavities to protect components and lend strength; or molded-in tabs to retain the device on the receiver. However, none of these features are positively recited in any of the claims and not all of these features are entirely supported by applicant’s detailed disclosure. Therefore, these arguments lack merit.

In claim 7, applicant, apparently, incorporates the bumper fascia as part of the claimed combination. Applicant argues that the combination of Fulkerson and Dahl fails to meet the claimed combination. Applicant indicates that the prior art leaves the hitch vulnerable to dirt and moisture. The examiner disagrees. Fulkerson shows a bumper fascia and with a hitch protecting door or cover that encloses and protects the hitch receiver, in as much as any structure disclosed by applicant does. Applicant argues that applicant’s combination solves problems not addressed by the prior art, is more useful and provides a better synergism. The examiner disagrees. All of the prior art devices are designed to protect the hitch receiver and related components, and to additionally improve the appearance of the vehicle. These are the same objectives as applicant’s invention. Fulkerson, in particular, is designed to be an esthetically appealing fascia that covers and protects the hitch receiver from every direction. Dahl

also provides as much protection to the receiver as applicant's cover alone and is designed to improve the appearance of the rear of the vehicle.

Applicant argues that the combination of references is not possible because the Fulkerson cover stays on the vehicle. He argues that each reference is complete and so there is no suggestion to modify either. He also argues that the references take different approaches and are for different purposes so they teach away from each other. The examiner maintains the prior art contradicts all of these statements. In column 3, lines 21-23, Fulkerson indicates "door 42 may be removed". Fulkerson also indicates, in column 3, lines 30-33, that structural "modifications will be obvious to those skilled in the art". Therefore, Fulkerson clearly teaches that the door or cover need not remain attached while the hitch is in place and Fulkerson did anticipate modifications to the design. Also, Dahl specifically teaches the use of a hitch cover for the purpose of improved aesthetics and protection of the receiver from dirt, debris, etc. (see col. 1, lines 25-32). The teachings are, therefore, compatible and complimentary to each other. Fulkerson teaches the basis combination with a removable cover. Dahl indicates his is a strong attractive hitch cover with greater versatility than the Fulkerson device.

Applicant's has requested constructive assistance from the examiner. However, for the examiner to draft an allowable claim, allowable subject matter must be readily perceived. That is not the case at present.

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Aquino shows a hitch cover that is removable from the rear end of the vehicle.

Roberts, Kozlarek, and McPheters show hitch receiver covers that slot into the hitch receiver.

Powell (USPN 6,247,257) shows a hitch receiver cover that slots into the receiver.


11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anne Marie M Boehler whose telephone number is 703-308-0422. The examiner can normally be reached on 7:30-5:00, Monday-Thursday, and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on 703-308-0629. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

 11/18/07
Anne Marie M. Boehler
Primary Examiner
Art Unit 3611

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